

**UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF NORTH CAROLINA**

STUDENTS FOR FAIR ADMISSIONS,  
INC.,

Plaintiff,

v.

THE UNIVERSITY OF NORTH  
CAROLINA AT CHAPEL HILL, et al.,

Defendants; and

LUIS ACOSTA; CHRISTOPHER  
JACKSON on behalf of C.J.;  
RAMONIA JONES on behalf of R.J.;  
JULIA NIEVES on behalf of I.N.;  
ANGIE & KEVIN MILLS on behalf of  
Q.M.; LAURA ORNELAS; CECILIA  
POLANCO; TAMIKA WILLIAMS on  
behalf of A.J.; and STAR WINGATE-  
BEY,

Defendant-Intervenors.

Civil Action No. 1:14-cv-954-LCB-JLW

**UNOPPOSED MOTION TO ADD DEFENDANT-INTERVENOR**

Pursuant to Rule 21 of the Federal Rules of Civil Procedure, Defendant-Intervenors, Luis Acosta, *et al.*, respectfully move this Court to add Andrew Brennan as a defendant-intervenor in this action. Counsel for Defendant-Intervenors has conferred with all other counsel, and neither Plaintiff nor Defendants oppose this motion.

Like the current Defendant-Intervenors, Mr. Brennan seeks to ensure that a full evidentiary record is created regarding UNC-Chapel Hill's consideration of race and

ethnicity as part of its holistic review of applicants' files in its admissions process with respect to: (a) the history of segregation and discrimination at UNC-Chapel Hill and in North Carolina, and (b) the effect of UNC-Chapel Hill's existing, and SFFA's proposed, admissions processes on the critical mass of diverse students at UNC-Chapel Hill. Mr. Brennan, a rising junior and Robertson Scholar at UNC-Chapel Hill who identifies as African American, believes that UNC-Chapel Hill's "current [admissions] policy facilitates the admission of strong African American students," as well as "the admission of underrepresented minority students with racial or ethnic backgrounds different from [his] own and from whom [he] feel[s he] learn[s] both inside and outside the classroom." *See* Decl. of Andrew Brennan (attached as Ex. 1).

Rule 21 provides that either in response to a motion, or *sua sponte*, "the court may at any time, on just terms, add . . . a party." Fed. R. Civ. P. 21. Courts considering Rule 21 motions "ordinarily consider basic principles such as fundamental fairness and judicial economy, whether an order . . . would prejudice any party or would result in undue delay, and the threats of duplicitous litigation and inconsistent jury verdicts." *John S. Clark Co., Inc. v. Travelers Indem. Co. of Illinois*, 359 F. Supp. 2d 429, 440 (M.D.N.C. 2004).

Putative defendant-intervenor Brennan's joinder will not change the substance or timing of Defendant-Intervenors' limited participation in this case, nor will it create any delay or prejudice. Thus, Defendant-Intervenors respectfully request this Court grant their motion to add Andrew Brennan as an intervenor.

Dated: May 12, 2017

Respectfully submitted,

/s/ Reed Colfax

Reed Colfax\*

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ATTORNEYS FOR DEFENDANT-  
INTERVENORS

\* *Special Appearance*

**CERTIFICATE OF SERVICE**

In accordance with Local Rule 5.3(b)(2), I hereby certify that this document filed through the CM-ECF system on May 12, 2017 will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Laura Gaztambide-Arandes  
Laura Gaztambide-Arandes

# **EXHIBIT**

**1**

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**DECLARATION OF ANDREW EDWARD BRENNEN**

Andrew Brennen, pursuant to 28 U.S.C. § 1746, declares the following:

1. My name is Andrew Edward Brennen, I am over 18 years of age, and I am fully competent to make this declaration.
2. I am a full-time undergraduate student at UNC-Chapel Hill (“Carolina”). I am a sophomore and am pursuing a major in Political Science and a minor in Philosophy, Politics, and Economics (PPE).
3. I am African American.
4. There were several factors which contributed to my decision to attend Carolina ranging from my personal academic interests to financial considerations. I applied to over a dozen schools, public and private, throughout the United States. When considering various schools, I focused on three central questions: 1) Does the school

have financial aid which I can qualify for? 2) Does the school have political science opportunities which I can take advantage of to bolster my education outside of the classroom? 3) Does the school feature a diverse student body like those which I have become accustomed to after 13 years in public school?

5. Though not decisive, financial aid was important to me. My family was not poor. However, like many folks in the middle class, they were not in a position to spend hundreds of thousands of dollars on college expenses. I was also averse to taking on massive student loans like both my parents did in order to afford college. Luckily, many colleges and universities offer merit scholarships and because of my high school grades and extracurricular activities I was confident that I could qualify for one. Ultimately, I received several scholarship offers from various universities. They ranged in scope and value but the offer from the Robertson Scholars Program at UNC Chapel Hill was by far the most attractive. But the scholarship alone wasn't enough for me to decide to attend Carolina, I had one other consideration to make.

6. I have always learned best outside the classroom. Whether that meant speech and debate my sophomore year of high school or starting my own education advocacy group my junior year; my most formative educational experiences have occurred in non-traditional settings. When considering UNC, I closely examined what types of opportunities the community provided to get involved outside of classes.

7. There were two things that stuck out. The first was Student Government. UNC has one of the most robust systems of student self-governance in the country. In

the context of much of my high school advocacy being around “student voice,” this was appealing.

8. Second, it was important to me that UNC was a public school, and by extension a diverse community. While gaining a full understanding of what diversity at UNC was like before being on campus was challenging, there were several indicators that presented clues. First, I was impressed by UNC’s robust need-based financial aid. Having studied college access pretty extensively in high school, I deeply understood the effect programs like the Carolina Covenant had on breaking down barriers to entry presented to students from low socio-economic families. But there was also a flip side. The data on the University’s own website seemed to indicate a remarkably low number of African American males were admitted to the University each year. In other words, a remarkably low number of people that looked like me.

9. Taking all of these factors together and weighing them against other options including Yale, Vanderbilt, UVA, and Wake Forest, I decided to attend UNC Chapel Hill. It was impossible for me to know how any of my preconceived notions about the school would play out once I was actually on campus but I was looking forward to the adventure.

10. I believe my background enables me to offer unique perspectives and cultural experiences in my academic and campus activities. My family and I moved five times before I graduated high school. We lived in New York, Virginia, Georgia, Maryland, and Kentucky, all due to my dad’s career. Constantly moving had its positives



and negatives. On the one hand, I was able to constantly enjoy new experiences that most of my peers did not. On the other hand, my “peers” changed constantly and building long-term friendships was difficult. In the places my family spent the most time, we were among the only African Americans in our community.

11. Between the 6 years spent in rural Georgia and the 6 years spent in Kentucky, I am no stranger to the implications of being black in spaces dominated by white people. Sometimes, these implications play out in harmless ways, like how my friends are always taken aback by the prominence of black Santa Clauses in my house during Christmas. Sometimes they play out in more insidious ways, like how I have been accused of “acting white” by my classmates because of my willingness to speak up in class and the ease with which I grasped the material. Both of these examples along with countless others contributed to an early understanding between my two brothers and I that the color of our skin mattered in a way different than it did to our white classmates.

12. My junior year of high school I came out to my family and friends as gay. I was always confused as to why “coming out” was necessary—however living in the south, I was no stranger to the bullying and abuse members of the LGBT community often face. I knew from the beginning that my family and friends would accept me for who I was and that made coming out easy. I was less sure about members of my broader community but that was a challenge I had prepared myself to face. A challenge I was not prepared to face, however, was the number of fellow queer youth who were not as lucky as I was and did not have a supportive family. I’ve had dozens of LGBT kids reach out

looking for guidance, support or sometimes just someone to talk to. I tried to do the best I could but sometimes these conversations were overwhelming. They felt isolated and afraid and unfortunately, they were right to feel that way.

13. I bring all of these experiences and perspectives to Carolina with me. They inform how I answer questions in class, who I choose to hang out with, what types of activities I participate in or don't, what is included in my social life, and how the people around me experience college.

14. I believe the benefits of racial or ethnic diversity play an important role in a number of academic and campus activities that affect my undergraduate experience, including lectures, seminars, residential life, student government, communities of faith, extracurricular activities and community service programs. In particular, I have been involved with Student Government and The Inter-Fraternity Council. These activities benefit enormously from racial and ethnic diversity and by the membership of people with different backgrounds.

15. I currently experience academic and personal benefits from UNC-Chapel Hill's racially diverse student body. As I mentioned above, the diversity of the student body was one of the main factors in my decision to attend the University. My exposure to communities different from my own has led to countless instances of personal growth. For example, after being exposed to the fraternity system firsthand, I better understand the controversy surrounding its historical legacy. After participating in a vigil on campus following the murder of three Muslim students, I better understand the way islamophobia

plays out for members of the Carolina community. And after serving on several University committees focused on sexual assault prevention, I have a better understanding of the factors that play into gender-based sexual violence, especially among women of color. These examples are not exhaustive. But they do provide small insight into the value that being on a diverse campus has had on my college experience thus far.

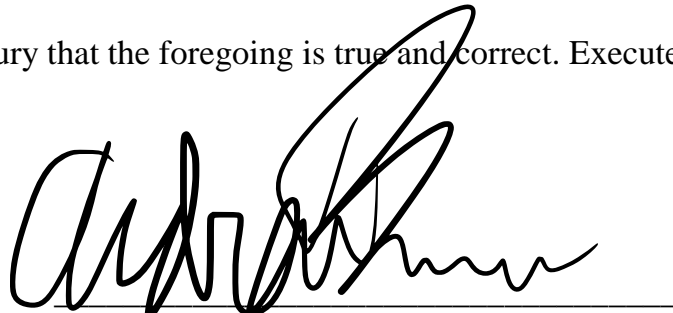
16. I believe my education would be harmed if UNC-Chapel Hill stopped considering race in its admission decisions. The current policy facilitates the admission of strong African American students, which improves my educational experience by allowing me to learn alongside a greater number of African American students so that I do not feel singled out as a spokesperson for my race. The policy likewise facilitates the admission of underrepresented minority students with racial or ethnic backgrounds different from my own and from whom I feel I learn both inside and outside the classroom.

17. I want to learn and live alongside students who are each a part of a critical mass of their race/ethnicity. To facilitate that, I would like to see an increase in the number and diversity of underrepresented racial groups admitted to UNC-Chapel Hill. Often times, I will be among the only African American students in my classes or study groups. On the whole, this doesn't bother me—however, there have been instances where this reality led to uncomfortable encounters. One notable instance is when a student in one of my classes implied that, due to affirmative action, it is hard to know

whether African American students at the University “deserve” to be there. No fewer than six sets of eyes in the classroom turned to me to respond. I was speechless in the moment and felt like I failed to come to the proper defense of my fellow students of color.

18. Racial issues are often a topic of conversation at the University because every issue from my perspective is a racial one. When discussing sexual assault I’m immediately drawn to the disaggregated data by race. When discussing admissions or retention policy, I am immediately drawn to subgroups. When attending parties, I always notice when I am the only one of color. Every issue is a racial issue.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 3 day of April, 2017.



Andrew Brennen